

HOUSE COMMITTEE SUBSTITUTE

FOR

SENATE SUBSTITUTE

FOR

SENATE BILL NO. 242

AN ACT

To amend chapter 512, RSMo, by adding thereto one new section relating to supersedeas bond requirements, with an emergency clause.

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BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF MISSOURI, AS FOLLOWS:

Section A. Chapter 512, RSMo, is amended by adding thereto one new section, to be known as section 512.085, to read as follows:

512.085. 1. In order to secure and protect the monies to be received as a result of the master settlement agreement, as defined in section 196.1000, RSMo, in civil litigation as to any claim relating to tobacco products involving a signatory, a successor of a signatory, or an affiliate of a signatory to the master settlement agreement, the amount of the required undertaking or bond or equivalent surety to be furnished during the pendency of an appeal or any discretionary appellate review of any judgment granting legal, equitable, or any other form of relief in order to stay the execution thereon during the entire course of appellate review shall be set in accordance with

applicable laws or court rules, except that the total appeal bond or equivalent surety that is required of all appellants collectively shall not exceed fifty million dollars, regardless of the value of the judgment. Nothing in this section or any other provision of law shall be construed to eliminate the discretion of the court, for good cause shown, to set the undertaking or bond on appeal in an amount lower than that otherwise established by law.

2. If the appellee proves by a preponderance of the evidence that a party bringing an appeal or seeking a stay, for whom the undertaking has been limited, is purposefully dissipating or diverting assets outside of the ordinary course of its business for the purpose of avoiding ultimate payment of the judgment, a limitation granted pursuant to subsection 1 of this section may be rescinded and the court may enter such orders as are necessary to prevent dissipation or diversion of the assets. An appellant whose bond has been reduced pursuant to subsection 1 of this section shall:

(1) Provide to the court and appellee the most recent statement of assets and liabilities of the appellant that is filed with any federal, state, or foreign regulatory agency;

(2) Provide to the court and appellee on a quarterly basis any subsequent updated statement of assets and liabilities that is filed with any federal, state, or foreign regulatory agency; and

(3) Agree that it will not dissipate or divert assets outside the ordinary course of its business for the purpose of avoiding ultimate payment of the judgment.

3. The provisions of this section shall apply to all cases pending on or after the effective date of this section.

Section B. Because of the need to ensure payment of monies received as a result of the master settlement agreement with tobacco companies, section A of this act is deemed necessary for the immediate preservation of the public health, welfare, peace and safety, and is hereby declared to be an emergency act within the meaning of the constitution, and section A of this act shall be in full force and effect upon its passage and approval.